

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 2. ADMINISTRATION  
DIVISION 7. SECRETARY OF STATE  
CHAPTER 15. TRUSTWORTHY ELECTRONIC DOCUMENT OR RECORD  
PRESERVATION**

**PROPOSAL TO ADD  
2 CALIFORNIA CODE OF REGULATIONS  
SECTIONS 22620.1 THROUGH 22620.8  
(TRUSTWORTHY ELECTRONIC DOCUMENT OR RECORD PRESERVATION)**

**NATURE OF PROCEEDING**

NOTICE IS HEREBY GIVEN that the Secretary of State is proposing to take the action described in the Information Digest.

A public hearing regarding this proposal will be held on January 24, 2011, at 10 a.m. in the Multi-Purpose Room, 1<sup>st</sup> Floor of the Secretary of State's Office, 1500 11<sup>th</sup> Street, Sacramento, CA 95814.

Following the public hearing, the Secretary of State may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

Notice is also given that any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the

Secretary of State  
1500 11<sup>th</sup> Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at (916) 653-4620 or by e-mail to [theresa.finger@sos.ca.gov](mailto:theresa.finger@sos.ca.gov). Comments must be submitted prior to 5 p.m. on January 24, 2011. The Secretary of State will consider only comments received at the Secretary of State's Office by that time.

## **PROPOSED REGULATORY ACTION**

The Secretary of State proposes the following regulatory action: Add sections 22620.1 through 22620.8 of Chapter 15 of Division 7 of Title 2 of the California Code of Regulations, to implement, interpret, or make specific provisions of Government Code section 12168.7.

## **AUTHORITY AND REFERENCE**

Authority cited: Section 12168.7, Government Code

Reference cited: Sections 25105, 26205, 26205.1, 26205.5, 26907, 27001, 27322.2, 34090.5, and 60203, Government Code; section 102235, Health and Safety Code; and section 10851, Welfare and Institutions Code.

## **INFORMATION DIGEST/POLICY STATEMENT OVERVIEW**

The Secretary of State proposes to add sections 22620.1 through 22620.8 to Chapter 15 of Division 7 of Title 2 of the California Code of Regulations, which would implement, interpret, or make specific section 12168.7 of the Government Code. This statute requires the Secretary of State to approve and adopt uniform statewide standards established by the American National Standards Institute (ANSI) or the Association for Information and Image Management (AIIM) for the purpose of storing and recording permanent and nonpermanent records in electronic media.

Specifically, the Secretary of State proposes to amend Title 2 of the California Code of Regulations as follows:

- 1) Section 22620.1 will provide the purpose for the newly established chapter.
- 2) Section 22620.2 will describe the applicability of electronic document or record standards.
- 3) Section 22620.3 will define terms that are used in the regulations.
- 4) Section 22620.4 will adopt section 6.2 Recommended Project Steps and Activities of “AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic Document Management Systems,” to provide for uniform project steps and activities to follow in the planning and implementation of electronic content management systems.
- 5) Section 22620.5 will adopt section 6.17 Business Practices Documentation of “AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic

Document Management Systems” to ensure appropriate policies and procedures associated with the creation, management and storage of electronic documents or records are prepared, this section will require that the information be in writing by requiring a document management policy prior to system implementation, and updated regularly.

- 6) Section 22620.6 will adopt section in 5.4.2.4 Document image compression of “AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic Document Management Systems” to provide for uniform standards related to electronic file compression when an entity determines the need for compression.
- 7) Section 22620.7 will adopt section 5.3.3 Trusted System and Legal Considerations of “AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic Document Management Systems” to provide specific conditions that would meet the definition of trusted system, as provided in Government Code section 12168.7(c).
- 8) Section 22620.8 will adopt section 5.4.1.4 Image formats of “AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic Document Management Systems” and require compliance with ANSI/AIIM/CGATS/ISO 19005-1:2005 only if PDF/A is chosen as the file format for long term storage.

Section 22620.8 also incorporates by reference the standard to follow when choosing PDF/A as the file format. The standard is ANSI/AIIM/CGATS/ISO 19005-1:2005 and is similar to the ISO standard 19005-1:2009, but adopted in the United States by AIIM and the Graphic Arts Technologies Standards (CGATS).

### **Documents Incorporated By Reference**

“ANSI/AIIM/CGATS/ISO 19005-1:2005, Document Management – Electronic Document File Format for Long-Term Preservation – Part 1: Use of PDF 1.4 (PDF/A-1),” approved as ANSI Standards June 15, 2008.

“AIIM ARP1-2009 Analysis, Selection, and Implementation of Electronic Document Management Systems,” approved June 5, 2009.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Secretary of State has made the following initial determinations:

1. **Mandate on local agencies and school districts:** This proposal does not impose a mandate on local agencies or school districts.

2. **Costs or savings to any state agency:** We anticipate many state agencies will already have access to the standards or rely on their vendor to comply with the standards. Cost will be approximately \$92 to \$319 if the standards are purchased.
3. **Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630:** Costs of \$92 to \$319 if the standards are purchased.
4. **Other nondiscretionary cost or savings imposed on local agencies:** Costs should be minimal because the regulations are not retroactive. The Secretary of State anticipates local agencies will begin to list the standards in their proposals for new information technology solutions. Savings could be incurred in the long-term because local agencies will have a freely available best practices document to follow when conducting an analysis, selection, and implementation of document management systems, minimizing project failures. There could also be savings from having documents stored to a file format designed for long-term preservation.
5. **Cost or savings in federal funding to the state:** None.
6. **Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states:** None.
7. **Costs impacts on representative private person or businesses:** Most of the businesses either have access to the standards or participate in the committees that develop the standards. Therefore, costs on representative private person or businesses should be minimal, if any.
8. **Adoption of this new chapter and sections will not:**
  - (A) create or eliminate jobs within California;
  - (B) create new businesses or eliminate existing businesses within California; or
  - (C) affect the expansion of businesses currently doing business within California.
9. **Significant effect on housing:** None
10. **Effect on small business:** Most of the businesses either have access to the standards or participate in the committees that develop the standards. Therefore, costs on representative private person or businesses should be minimal, if any.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Secretary of State's Office must determine that no reasonable alternative has been identified that would be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Secretary of State invites persons to present statements or arguments with respect to alternatives to the proposed amendments during the written comment period.

## **CONTACT PERSON**

Inquiries concerning the proposed administrative action may be directed to:

Theresa Aguilar Finger, Special Projects Manager, MBA/TM, C.P.A.  
Secretary of State  
1500 11<sup>th</sup> Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 651-9532

or

Kaye Kaufman, Project Management Office, Elections Specialist  
Secretary of State  
1500 11<sup>th</sup> Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 657-2376

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Secretary of State has prepared an initial statement of reasons for the proposed action and has available the information upon which the proposal is based.

## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Secretary of State at 1500 11<sup>th</sup> Street, 6<sup>th</sup> Floor, Sacramento, CA 95814. These documents may also be viewed and downloaded from the Secretary of State's website at [www.sos.ca.gov](http://www.sos.ca.gov).

## **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named above.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named above. As of the date this notice, the rulemaking file consists of this Notice of Proposed Rulemaking, the regulations as proposed, and the Initial Statement of Reasons. The Initial Statement of Reasons includes the express terms of the proposed action and the information upon which the proposed action is based.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the proposed regulations in underline and/or strikeout can be accessed through the Secretary of State's web site at [www.sos.ca.gov](http://www.sos.ca.gov). A copy of the Final Statement of Reasons will be posted on the web site once the statement has been prepared.